

HOUSE BILL No. 1681

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-22-2-37.1; IC 9-24-9; IC 12-15-44.2-9; IC 21-14-11; IC 31-9-2; IC 31-28-7; IC 34-30-2-30.4.

Synopsis: Foster care. Allows a foster parent, caseworker, or probation officer to sign an application for a learner's permit or driver's license for a minor who is receiving foster care. Requires, if a caseworker or probation officer signs the application, the minor to sign a statement that the minor will be financially responsible for any injury or damage that the minor applicant causes by reason of the operation of a motor vehicle. Provides certain civil immunity to a caseworker or probation officer who signs an application. Establishes: (1) a tuition and fee exemption for certain foster care youth attending state educational institutions; and (2) the foster care educational assistance program. Requires the department of child services to administer the program. Provides that certain individuals previously receiving foster care are eligible to receive benefits under the Indiana check-up plan if the individual meets certain eligibility requirements. Requires the office of Medicaid policy and planning to apply to the United States Department of Health and Human Services for approval to amend the Indiana check-up plan to include services for the certain individuals previously receiving foster care.

Effective: Upon passage; July 1, 2009.

Summers

January 16, 2009, read first time and referred to Committee on Family, Children and Human Affairs.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1681

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.90-2008,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 37.1. (a) This section applies to a rulemaking
4 action resulting in any of the following rules:

5 (1) An order adopted by the commissioner of the Indiana
6 department of transportation under IC 9-20-1-3(d) or
7 IC 9-21-4-7(a) and designated by the commissioner as an
8 emergency rule.

9 (2) An action taken by the director of the department of natural
10 resources under IC 14-22-2-6(d) or IC 14-22-6-13.

11 (3) An emergency temporary standard adopted by the
12 occupational safety standards commission under
13 IC 22-8-1.1-16.1.

14 (4) An emergency rule adopted by the solid waste management
15 board under IC 13-22-2-3 and classifying a waste as hazardous.

16 (5) A rule, other than a rule described in subdivision (6), adopted
17 by the department of financial institutions under IC 24-4.5-6-107

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and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by or other date provided by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, IC 4-33-4-14, or IC 4-35-4-2.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

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(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-17-10-9.

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

(32) An emergency rule adopted by the department of child services under IC 31-28-7-6.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the

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agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

- (1) accept the rule for filing; and
- (2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

- (1) The effective date of the statute delegating authority to the agency to adopt the rule.
- (2) The date and time that the rule is accepted for filing under subsection (e).
- (3) The effective date stated by the adopting agency in the rule.
- (4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

- (1) sections 24 through 36 of this chapter; or
- (2) IC 13-14-9;

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as applicable.

(h) A rule described in subsection (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

(m) A rule described in subsection (a)(5) or (a)(6) expires on the date the department is next required to issue a rule under the statute authorizing or requiring the rule.

SECTION 2. IC 9-24-9-3, AS AMENDED BY P.L.156-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a)** The application of an individual less than eighteen (18) years of age for a permit or license under this chapter must be signed and sworn to or affirmed by one (1) of the following in order of preference:

(1) The parent having custody of the minor applicant or a designee of the custodial parent specified by the custodial parent.

(2) The noncustodial parent (as defined in IC 31-9-2-83) of the minor applicant or a designee of the noncustodial parent specified by the noncustodial parent.

(3) The guardian having custody of the minor applicant.

(4) A foster parent (as defined in IC 31-9-2-47), a caseworker (as defined in IC 31-9-2-11), or a probation officer for a minor who is receiving foster care.

~~(4)~~ **(5)** In the absence of a person described in subdivisions (1) through ~~(3)~~, **(4)**, any other adult who is willing to assume the obligations imposed by the provisions of this chapter.

(b) If a caseworker (as defined in IC 31-9-2-11) or probation officer signs an application under subsection (a) for a minor who is receiving foster care, the minor who is receiving foster care shall sign a statement that the minor will be financially responsible for any injury or damage that the minor applicant causes by operating a motor vehicle. However, this subsection does not relieve a person

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1 from complying with the financial responsibility requirements
2 under IC 9-25.

3 SECTION 3. IC 9-24-9-4 IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) **Except as provided under**
5 **subsection (d)**, an individual who signs an application for a permit or
6 license under this chapter agrees to be responsible jointly and severally
7 with the minor applicant for any injury or damage that the minor
8 applicant causes by reason of the operation of a motor vehicle if the
9 minor applicant is liable in damages.

10 (b) An individual who has signed the application of a minor
11 applicant for a permit or license may subsequently file with the bureau
12 a verified written request that the permit or license be canceled. The
13 bureau shall cancel the permit or license, and the individual who signed
14 the application of the minor applicant shall be relieved from the
15 liability that is imposed under this chapter by reason of having signed
16 the application and that is subsequently incurred by the minor applicant
17 in operating a motor vehicle.

18 (c) When a minor applicant becomes eighteen (18) years of age, the
19 individual who signed the minor's application is relieved from the
20 liability imposed under this chapter and subsequently incurred by the
21 applicant operating a motor vehicle.

22 **(d) A caseworker or probation officer who signs an application**
23 **for a permit or license for a minor who was receiving foster care**
24 **at the time the caseworker or probation officer signed the**
25 **application is not responsible for any injury or damage that the**
26 **minor applicant causes by operating a motor vehicle.**

27 SECTION 4. IC 12-15-44.2-9, AS ADDED BY P.L.3-2008,
28 SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2009]: Sec. 9. (a) An individual is eligible for participation in
30 the plan if the individual meets the following requirements:

- 31 (1) The individual is at least eighteen (18) years of age and less
32 than sixty-five (65) years of age.
- 33 (2) The individual is a United States citizen and has been a
34 resident of Indiana for at least twelve (12) months.
- 35 (3) The individual has an annual household income of not more
36 than two hundred percent (200%) of the federal income poverty
37 level.
- 38 (4) The individual is not eligible for health insurance coverage
39 through the individual's employer.
- 40 (5) The individual:
41 **(A) has not had health insurance coverage for at least six (6)**
42 **months; or**

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(B) meets the following requirements:

(i) The individual received foster care under a court order during the month before the individual became eighteen (18) years of age.

(ii) The individual is at least twenty-one (21) years of age and less than twenty-four (24) years of age.

(iii) The individual is enrolled in a postsecondary educational institution or technical education school or program.

(b) The following individuals are not eligible for the plan:

(1) An individual who participates in the federal Medicare program (42 U.S.C. 1395 et seq.).

(2) A pregnant woman for purposes of pregnancy related services.

(3) An individual who is eligible for the Medicaid program as a disabled person.

(c) The eligibility requirements specified in subsection (a) are subject to approval for federal financial participation by the United States Department of Health and Human Services.

SECTION 5. IC 21-14-11 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 11. Tuition and Fee Exemption for Foster Care Youth

Sec. 1. This chapter applies to an individual who:

(1) received foster care under a court order during the month before the individual became eighteen (18) years of age;

(2) is less than twenty-four (24) years of age; and

(3) enrolls in a state educational institution after June 30, 2009.

Sec. 2. (a) Subject to subsection (b), an individual described in section 1 of this chapter is entitled to enter, remain, and receive instruction in a state educational institution upon the same conditions, qualifications, and regulations prescribed for other applicants for admission to or scholars in the state educational institutions, without the payment of any educational costs for one hundred twenty-four (124) semester credit hours in the state educational institution.

(b) The maximum amount that an individual described in section 1 of this chapter is exempt from paying for a semester hour is an amount equal to the cost of an undergraduate semester credit hour at the state educational institution in which the eligible applicant enrolls.

Sec. 3. For purposes of this chapter, the commission for higher

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education, in consultation with the state student assistance commission, shall define mandatory fees that qualify as educational costs. However, educational costs must include tuition, room and board (including a food plan), fees, and course required books.

Sec. 4. If an individual described in section 1 of this chapter:

- (1) is permitted to matriculate in the state educational institution;
- (2) qualifies under this chapter; and
- (3) has earned or has been awarded a cash scholarship that is paid or payable to a state educational institution, from any source;

the amount paid shall be applied to the credit of the eligible applicant in the payment of incidental expenses of the eligible applicant's attendance at the state educational institution. The balance, if the terms of the scholarship permit, must be returned to the individual.

Sec. 5. Determination of initial eligibility for higher education benefits authorized under this chapter is vested exclusively in the department of child services. Any individual described in section 1 of this chapter may make a written request for a determination of eligibility for benefits under this chapter by the department of child services. The director of the department of child services or the director's designee shall make a written determination of eligibility in response to each request. In determining the amount of an eligible individual's benefit, the state student assistance commission shall consider other higher education financial assistance in conformity with this chapter.

Sec. 6. An appeal from an adverse determination under section 5 of this chapter must be made in writing to the department of child services not more than fifteen (15) working days following the applicant's receipt of the determination. A final order must be made not more than fifteen (15) days following receipt of the written appeal.

Sec. 7. A person who knowingly or intentionally submits a false or misleading application or other document under this chapter commits a Class A misdemeanor.

Sec. 8. The amount of the benefits under this chapter is equal to one (1) of the following:

- (1) If the eligible individual described in section 1 of this chapter does not receive financial assistance specifically designated for educational costs, the amount determined under sections 2 through 6 of this chapter.

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(2) If the eligible individual described in section 1 of this chapter receives financial assistance specifically designated for educational costs:

(A) the amount determined under sections 2 through 6 of this chapter; minus

(B) the financial assistance specifically designated for educational costs.

SECTION 6. IC 31-9-2-43.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 43.1. "Educational assistance program"**, for purposes of IC 31-28-7, means the foster care educational assistance program established under IC 31-28-7-2.

SECTION 7. IC 31-9-2-43.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 43.2. "Educational program"**, for purposes of IC 31-28-7, means a program that:

(1) is offered or maintained by a state educational institution (as defined in IC 21-7-13-32); and

(2) leads to the award of a certificate, diploma, or degree upon satisfactory completion of course work requirements.

SECTION 8. IC 31-9-2-120.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 120.5. "State educational institution"**, for purposes of IC 31-28-7, has the meaning set forth in IC 21-7-13-32.

SECTION 9. IC 31-28-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 7. Foster Care Educational Assistance Program

Sec. 1. This chapter applies to an individual who:

(1) received foster care under a court order during the month before the individual became eighteen (18) years of age;

(2) is less than twenty-four (24) years of age; and

(3) enrolls in a state educational institution after June 30, 2009.

Sec. 2. (a) A foster care educational assistance program is established.

(b) The department shall administer the program.

Sec. 3. The department may reimburse an individual who is:

(1) enrolled in a state educational institution; and

(2) participating in the educational assistance program; for room and board (including a food plan), technical equipment,

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fees, and course required books.

Sec. 4. Each individual:

(1) enrolled in a state educational institution; and
 (2) participating in the educational assistance program;
 shall be responsible for all fees charged by the state educational institution that are not directly related to and required for the courses in the educational program in which the individual is enrolled.

Sec. 5. To remain eligible for the educational assistance program, an individual must:

(1) remain in good standing with the state educational institution in which the individual is enrolled; and
 (2) make satisfactory progress toward completion of the requirement of the educational program in which the individual is enrolled.

Sec. 6. The department may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, necessary for the administration of the educational assistance program.

SECTION 10. IC 34-30-2-30.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 30.4. IC 9-24-9-4 (Concerning caseworkers and probation officers that sign applications for learner's permits or driver's licenses for minors receiving foster care).**

SECTION 11. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(b) Before July 1, 2009, the office shall apply to the United States Department of Health and Human Services for approval to amend the Indiana check-up plan to include services for an individual who:

(1) meets the requirements in IC 12-15-44.2-9(1) through IC 12-15-44.2-9(4);
 (2) received foster care under a court order during the month before the individual became eighteen (18) years of age; and
 (3) is at least eighteen (18) and less than twenty-four (24) years of age.

(c) The office may not implement the amendment to the Indiana check-up plan until the office files an affidavit with the governor attesting that the amendment applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the

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- 1 amendment is approved.
- 2 (d) If the office receives approval to amend the Indiana
- 3 check-up plan under this SECTION from the United States
- 4 Department of Health and Human Services and the governor
- 5 receives the affidavit filed under subsection (c), the office shall
- 6 implement the amendment not later than five (5) days after the
- 7 governor receives the affidavit.
- 8 (e) This SECTION expires December 31, 2013.
- 9 SECTION 12. An emergency is declared for this act.

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